

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GEORGE O. MITCHELL,

Petitioner,

v.

MARK STRONG,

Respondent.

CASE NO. C16-5069 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
RE-REFERRING FOR FURTHER
PROCEEDINGS

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 18), and Petitioner George Mitchell’s (“Mitchell”) motion for extension of time to file objections (Dkt. 19) and objections to the R&R (Dkt. 20).

On February 5, 2016, Mitchell filed a habeas petition under 28 U.S.C. § 2254, challenging the state trial court’s denial of his 2013 petition seeking unconditional discharge. Dkt. 5 at 2. Respondent Mark Strong (“Strong”) argued Mitchell’s petition should be dismissed with prejudice because Mitchell failed to exhaust his state remedies. Dkt. 11.

1 On June 6, 2016, Judge Strombom issued the R&R recommending the Court deny
2 Strong's motion to dismiss without prejudice because it is not entirely clear what claim or
3 claims Mitchell is pursuing. Dkt. 18. Judge Strombom also recommended that Mitchell
4 be given an opportunity to clarify his claim or claims and that the parties provide
5 additional briefing on exhaustion and/or the merits of Mitchell's clarified claim or claims.
6 *Id.* On June 20, 2016, Mitchell filed a motion for an extension of time to object to the
7 R&R. Dkt. 19. That same day, Mitchell filed objections to the R&R. Dkt. 20. Strong
8 did not respond to either filing.

9 With regard to Mitchell's motion for an extension of time, the Court grants the
10 motion and will consider Mitchell's objections. As for his objections, Mitchell provides
11 additional briefing about his claims and whether they have been exhausted, as well as
12 several requests for relief. *See* Dkt. 20. The Court declines to consider this new
13 information in the first instance. The proper procedure is for Mitchell to present this
14 information in an amended habeas petition or in further briefing after the matter has been
15 re-referred to Judge Strombom. Indeed, Mitchell will have the opportunity to do so
16 following the entry of this order.

17 Therefore, the Court having considered the R&R, Mitchell's objections, and the
18 remaining record, does hereby find and order as follows:

- 19 (1) Mitchell's motion for extension of time to object (Dkt. 19) is **GRANTED**;
20 (2) The R&R is **ADOPTED**;
21 (3) Mitchell is directed to clarify his claim or claims in writing to the Court
22 **within fourteen days** of the date of this order; and

1 (4) This matter is **RE-REFFERED** for further proceedings.

2 Dated this 18th day of July, 2016.

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5 BENJAMIN H. SETTLE
6 United States District Judge
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